

The Gazette of India

EXTRAORDINARY PART II—Section 3—Sub-section (i) PUBLISHED BY AUTHORITY

No. 101] NEW DELHI, MONDAY, JUNE 24, 1963/ASADHA, 3, 1885

MINISTRY OF FINANCE (Department of Economic Affairs) *New Delhi, the 24th June, 1963*

THE DEFENCE OF INDIA (SEVENTH AMENDMENT) RULES, 1963

G.S.R. 1071.—In exercise of the powers conferred by section 3 of the Defence of India Act, 1962 (51 of 1962), the Central Government hereby makes the following further amendments in the Defence of India Rules, 1962, namely:—

1. **Short title.**—These rules may be called the Defence of India (Seventh Amendment) Rules, 1963.

2. **Amendment of the Defence of India Rules, 1962.**—In the Defence of India Rules, 1962,—

(i) in rule 126A, in clause (i), the words “with the aid of power” shall be omitted;

(ii) rule 126B shall be re-numbered as sub-rule (1) thereof, and after sub-rule (1) as so re-numbered, the following sub-rule shall be inserted, namely:—

“(2) Without prejudice to any provision contained in this Part, no dealer, refiner or other person shall, on and from the date of publication in the Official Gazette of the Defence of India (Seventh Amendment) Rules, 1963, make or manufacture any article (other than ornament) containing gold of any purity whether such purity exceeds nine carats or not, unless such dealer, refiner or other person is authorised by the Board, by general or special order, to make or manufacture such article.”;

(iii) in rule 126C,—

(a) in the proviso to sub-rule (1), for the words “by general or special order, grant”, the words “by general or special order, grant subject to such conditions, limitations or restrictions, if any, as may be specified in the order.” shall be substituted;

(b) for the proviso to sub-rule (2), the following proviso shall be substituted, namely:—

“Provided that—

(i) any refiner may, if authorised by the Board to do so by general or special order, make, manufacture or have in his possession, custody or control any primary gold containing gold of a purity exceeding fourteen carats,

- (ii) any refiner or dealer who has any primary gold of a purity exceeding fourteen carats in his possession as such refiner or dealer on the date of commencement of the Defence of India (Seventh Amendment) Rules, 1963, shall convert such gold into primary gold of a purity not exceeding fourteen carats within a period of seven days from that date or within such further period as the Board may by general or special order grant, and
- (iii) any refiner or dealer who as such refiner or dealer acquires or comes into the possession of any primary gold of a purity exceeding fourteen carats under any provision of this Part shall convert that gold into gold of a purity not exceeding fourteen carats within seven days of such acquisition or within such further period as the Board may by general or special order grant."
- (c) after sub-rule (2), the following sub-rules shall be inserted, namely:—
- "(3) Every person who makes, manufactures, or sells any primary gold after the expiry of thirty days from the date of commencement of the Defence of India (Seventh Amendment) Rules, 1963, or such further period as the Board may by notification specify in this behalf, shall put a stamp on each piece of primary gold,—
- (i) certifying the purity of gold contained in such primary gold and the date of making or manufacturing thereof; and
 - (ii) containing such descriptive and other particulars which may enable the identification of the maker or manufacturer of such primary gold, as may be prescribed.
- (4) No stamp referred to in sub-rule (3) shall be used in stamping any primary gold unless such stamp has been approved and registered by the Board."
- (iv) rule 126D shall be re-numbered as sub-rule (1) thereof, and after sub-rule (1) as so re-numbered, the following sub-rules shall be inserted, namely:—
- "(2) As from the date of commencement of the Defence of India (Seventh Amendment) Rules, 1963, no person who is a dealer, whether licensed or not, shall—
- (a) carry on business as money-lender or banker in the same premises in which he carries on business as a dealer;
 - (b) (i) sell or otherwise transfer to any person any gold on the hypothecation, pledge, mortgage or charge of which he has advanced any loan, whether before or after the tenth day of January, 1963, or
 - (ii) deliver such gold to the borrower, whether before or after the repayment of the loan,
- except under and in accordance with such conditions, limitations or restrictions, if any, as may be imposed by the Board in this behalf."
- (v) in rule 126E,—

(A) after sub-rule (1), the following sub-rule shall be inserted, namely:—

"(1A) (a) Every person who intends to carry on business as a refiner may, if he had a refinery in existence immediately before the commencement of this Part, make to the Board an application in such form and on payment of such fee as may be prescribed, for the issue of a licence under this rule:

Provided that a refiner who having been required to make an application for a licence under this Part before the commencement of the Defence of India (Seventh Amendment) Rules, 1963, has made an application before such commencement shall be deemed to have made an application under this sub-rule.

- (b) A person to whom a licence is issued under this sub-rule shall not carry on business as a dealer, money-lender or banker in the same premises in which he carries on business as a refiner.
- (c) notwithstanding anything contained in sub-rule (1), a refiner who is deemed under the proviso to clause (a) to have made an application for the issue of a licence to carry on business, may carry on business as a refiner, until he is granted a licence or is, by a notice in writing informed by the Board that a licence cannot be granted to him;
- (B) in sub-rule (2),—
- (1) after "sub-rule (1)", "or sub-rule (1A)" shall be inserted,
- (ii) for the words "fit to impose," the words "fit to impose and different conditions and restrictions may be imposed for different classes of dealers or refiners," shall be substituted;
- (C) in sub-rule (3), the words "and every refiner whose refinery is in existence on such commencement" shall be omitted;
- (D) after sub-rule (5), the following sub-rule shall be inserted, namely:—
- "(5A) No licence shall be issued by the Board to any person under sub-rule (1A) or under sub-rule (5) unless he has complied with the provisions of any law, rule, regulation or bye-law for the time being in force relating to the licensing or registration or both of refineries.";
- (E) sub-rule (6) shall be re-lettered as clause (a) thereof, and after clause (a) as so re-lettered, the following clause shall be inserted, namely:—
- "(b) A licence issued in pursuance of an application made under clause (a), may contain such conditions and restrictions as the Board may think fit to impose and different conditions and restrictions may be imposed for different classes of applicants.";
- (F) in sub-rule (7), the words "or refiner" wherever they occur, shall be omitted;
- (G) (i) in the proviso to sub-rule (8), the words "or by a refiner whose refinery is in existence immediately before such commencement" shall be omitted;
- (ii) after the proviso to sub-rule (8), the following further proviso shall be inserted, namely:—
- "Provided further that no application for the issue of a licence made by a refiner shall be granted unless the Board is satisfied, having regard to—
- (a) the number of refineries existing in the area in which the applicant intends to carry on business as a refiner,
- (b) the demand for primary gold in that area,
- (c) the facilities existing in that area for the assay of gold by any method other than the touch-stone method,
- (d) the turn over of the applicant during the year immediately before the commencement of this Part or immediately before the date of the application for the issue of the licence, whichever is later,
- (e) the suitability or otherwise of the applicant, and
- (f) the public interest,
- that the licence applied for should be granted.";
- (H) in sub-rule (10), in clause (a),—
- (i) for the words "A dealer or refiner who," the words "A dealer who", shall be substituted;

- (ii) after the words "or whose licence has been cancelled", the words "or a refiner whose application for the issue of a licence has been rejected or whose licence has been cancelled," shall be inserted;
- (vi) in rule 126F, in sub-rule (1), for the words "Every dealer and every refiner required to apply for a licence, or licensed," the words "Every dealer who is required to apply for a licence, or is licensed, and every refiner who has made an application for a licence or is licensed," shall be substituted;
- (vii) in rule 126G, in sub-rule (1), for the words "Every dealer and every refiner licensed", the words "Every dealer who is required to apply for a licence, or is licensed, and every refiner who has made an application for a licence or is licensed", shall be substituted;
- (viii) in rule 126H, in sub-rule (2),—
- (i) in clause (a),—
- (a) after the words "under this Part", the words "except in accordance with the conditions and restrictions, if any, contained in such licence" shall be inserted;
- (b) the following proviso shall be added at the end, namely.—
- "Provided that a refiner may sell gold to any person on production by that person of a permit granted by the Board in this behalf or to such other person as the Board may, by general or special order, authorise in this behalf;"
- (ii) in clause (b), after the words "under this Part shall" the words "except in accordance with the conditions and restrictions, if any, contained in such licence;" shall be inserted;
- (iii) in clause (c), after the words "under this Part shall", the words "except in accordance with the conditions and restrictions, if any, contained in such licence;" shall be inserted;
- (iv) in clause (d) in item (i), for the words "in this behalf," the words "or in accordance with such authorisation as the Board may, by general or special order, make in this behalf;" shall be substituted;
- (v) after clause (d), the following clause shall be inserted, namely:—
- "(e) No person acquiring gold in accordance with any general or special authorisation made by the Board, shall
- (i) sell or otherwise transfer or agree to sell or otherwise transfer, or
- (ii) expose or offer for sale or transfer,
- such gold to any person other than a person authorised by the Board by general or special order in this behalf."
- (ix) in rule 126I, in sub-rule (1), for the words "dealer or refiner required to apply for a licence, or licensed," the words "dealer required to apply for a licence, or licensed, or a refiner licensed," shall be substituted,
- (x) in rule 126L—
- (A) in sub-rule (1), after clause (b), the following clause shall be inserted, namely:—
- "(c) seize any books of account, return or any other document relating to any gold in respect of which he suspects that any provision of this Part has been, or is being, or is about to be, contravened and thereafter take all measures necessary for their safe custody.";

(B) after sub-rule (2), the following sub-rules shall be inserted, namely:—

“(3) Any officer authorised by the Board by writing in this behalf may search any person if that officer has reason to believe that such person has secreted about his person—

- (a) any gold in respect of which such officer suspects that any provision of this Part has been, or is being, or is about to be, contravened,
- (b) any document relating to such gold.

- (4) When any such officer as aforesaid is about to search the person referred to in sub-rule (3), he shall, if such person so requires, take such person to the nearest gazetted officer authorised by the Board or to the nearest magistrate.
- (5) Any officer authorised by the Board by writing in this behalf may, if he suspects that any person has contravened, or is contravening or is about to contravene any provision of this Part, detain such person and take him to a gazetted officer or to a magistrate for a search of his person.
- (6) A gazetted officer or magistrate before whom any person is brought shall, if he sees no reasonable ground for search, forthwith discharge the person but otherwise shall direct that search be made.
- (7) No female shall be searched by anyone excepting a female.
- (8) Any officer authorised by the Board by writing in this behalf may, if he has reason to believe that any person has contravened, or is contravening or is about to contravene any provision of this Part arrest such person and shall as soon as possible inform him of the grounds for such arrest and shall take such arrested person to the nearest magistrate within a period of twenty four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.
- (9) An officer who has arrested any person under this rule shall, for the purpose of releasing such person on bail or otherwise, have the same powers and be subject to the same provisions as the officer in-charge of a police station has and is subjected to under the Code of Criminal Procedure, 1898 (5 of 1898).
- (10) Any officer authorised by the Board by writing in this behalf may, if he has reason to believe that any aircraft, vehicle or animal or any vessel is being, or is about to be, used for carrying any gold in respect of which he suspects that any provision of this Part has been, or is being, or is about to be, contravened, at any time stop any such vehicle animal or vessel or, in the case of an aircraft, compel it to land, and
 - (a) rummage and search any part of the aircraft, vehicle or vessel;
 - (b) examine and search any goods in the aircraft, vehicle, vessel or on the animal;
 - (c) break open the lock of any door or package for exercising the powers conferred by clauses (a) and (b), if keys are withheld, and
 - (d) if it becomes necessary to stop any such aircraft, vehicle or animal or vessel, he may use all lawful means for stopping it, and where such means fail, the aircraft, vehicle, vessel or animal may be fired upon.
- (11) (a) The following conveyances shall be liable to confiscation:—
 - (i) any vessel which is or has been within the Indian waters, any aircraft which is or has been in India or any vehicle which is or has been in any area in India, while constructed, adapted, altered or fitted in any manner for the purpose of concealing gold;
 - (ii) any conveyance from which the whole or any part of gold is thrown over-board, staved or destroyed so as to prevent seizure by any officer authorised by the Board;

- (iii) any conveyance which having been required to stop or land under sub-rule (10) fails to do so, except for good and sufficient cause;
- (iv) any conveyance from which any gold cleared for exportation is unloaded without the permission of the officer authorised by the Board in this behalf;
- (v) any conveyance carrying imported gold which has entered India and is afterwards found with the whole or substantial portion of such gold missing, unless the master of the vessel or aircraft is able to account for the loss of, or deficiency in, the gold;

(b) Any conveyance or animal used as a means of transport or in the carriage of any gold in respect of which any provision of this Part has been, or is being or is about to be, contravened, shall be liable to confiscation, unless the owner of the conveyance or animal proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal and that each of them had taken all such precautions against such use as are for the time being specified in the rules made in this behalf by the Board:

Provided that where any such conveyance or animal is used for the carriage of goods or passengers for hire, the owner of the conveyance or animal shall be given an option to pay in lieu of confiscation of the conveyance or animal, a fine not exceeding the value of the gold which was sought to be so conveyed or carried.”;

(c) existing sub-rules (3) to (6) shall be renumbered as sub-rules (12) to (15) respectively and after sub-rule (15) as so re-numbered, the following sub-rule shall be inserted, namely:—

“(16) Any person who in relation to any gold does or omits to do any act which act or omission would render such gold liable to confiscation under rule 126M, or abets the doing or omission of such an act shall be liable, in addition to any liability for any punishment under this Part, to a penalty not exceeding five times the value of the gold of one thousand rupees, which ever is more.”;

(xi) in rule 126M, after sub-rule (7), the following sub-rule shall be inserted, namely:—

“(8) (a) Whenever confiscation of any gold is authorised by this Part, the officer adjudging it may give to the owner of the gold an option to pay in lieu of confiscation such fine as the said officer thinks fit:

Provided that such fines shall not exceed the double of the value of the gold.

(b) For the removal of doubt it is hereby declared that the payment of fine in lieu of confiscation of gold shall not prevent the infliction of any punishment to which the person affected is liable under the provision of this Part.”;

(xii) in rule 126O, in sub-rule (1), for the words “sub-rule (3)”, the words “sub-rule (4)” shall be substituted;

(xiii) in rule 126 P,—

(A) in sub-rule (2),—

(a) in item (vi), after the words “any ornament” the words “or any primary gold” shall be inserted;

(b) after item (vi), the following items shall be inserted, namely:—

“(vii) delivers, sells or otherwise transfers any gold in contravention of the provisions of rule 126D,

(viii) carries on business as a dealer, refiner, banker or money—lender in contravention of the provisions of rule 126D or 126E,

(ix) falsely stamps any primary gold with the intention of causing it to be believed that such primary gold contains gold of such

purity as is mentioned in such stamp or sells or otherwise transfers, or agrees to sell or otherwise transfer or exposes or offers for sale or transfer any such falsely stamped primary gold,

- (x) makes or counterfeits any stamp intending that the same shall be used for the purpose of stamping any primary gold, knowing the same to be counterfeit, or uses any such counterfeit stamp,";

(B) after sub-rule (3), the following rule shall be inserted, namely:—

"(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898), an offence under this rule, committed after the date of commencement of the Defence of India (Seventh Amendment) Rules, 1963, shall be tried summarily by a magistrate."

- (xiv) rule 126 Q shall be re-numbered as sub-rule (1) thereof and after sub-rule (1) as so re-numbered, the following sub-rule shall be inserted and shall be deemed always to have been inserted, namely:—

"(2) Nothing in rule 154 shall apply to any contravention of any provision of this Part or any order made thereunder."

- (xv) rule 126T shall be re-numbered as sub-rule (1) thereof and after sub-rule (1), as so re-numbered, the following sub-rule shall be inserted, namely:—

"(2) The Board, so far as it appears to it to be necessary or expedient for securing the equitable distribution and availability at fair prices of gold and ornaments, may by notification,—

(a) regulate the prices at which any gold or ornament may be bought or sold by any dealer or refiner, and

(b) regulate by licences, permits or otherwise, the distribution, transport, disposal, acquisition, possession, use or consumption of gold by dealers or refiners.";

- (xvi) after rule 126T, the following rule shall be inserted, namely:—

126. TT. "*Person permitted to buy gold to observe conditions.*—Any person authorised by the Board by general or special order, or holding a permit issued by the Board for buying or otherwise acquiring gold shall observe such conditions, be subject to such restrictions and furnish such accounts or returns, or both, to the Board, as may be prescribed.";

- (xvii) for rule 126 X, the following rule shall be substituted, namely:—

126. X. "*Government may perform functions and exercise powers of the Board.*—The Central Government may perform all or any of the functions of the Board and may by notification exercise all or any of the powers conferred by this Part on the Board, if that Government is of the opinion that it is necessary or expedient in the public interest so to do."

[No. F. 1(10) 63-GC.]

A. BAKSI, Jt. Secy.

